

Commission Meeting Agenda

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Location of Meeting:

Red Lion Hotel
1225 N. Wenatchee Ave.
Wenatchee, WA 98801
(509) 663-0711

Date and Time of Meeting:

Thursday, August 10, 2006
1:30 p.m.

Informal Study Group Sessions:

9:30 a.m. – 10:00 a.m. Charitable Nonprofit Study Session
10:00 a.m. – Noon Commercial Operators Study Session

Public Meeting:

Please note agenda items after 1:30 p.m. may be taken out of sequence at the discretion of the Chair.

1. **Executive Session to Discuss Pending Investigations, Tribal Negotiations & Litigation** 1:30-2:00 p.m.
 - a) Decision on ZDI Gaming, Inc. Declaratory Order
2. **Agenda Review / Director's Report:**
 - Administrative Issues:**
 - a) Commissioner Keven Rojecki Appointment
 - b) Legislative Hearing – July 19, 2006 - Joint Committee on Gambling Policy
 - c) Budget Presentation for 2007-2009 Biennium
 - d) Agency Request Legislation Proposals
 - e) Correspondence
 - Letters to Senators Cantwell and Murray regarding Senate Bill 2078
 - Washington State Audit Report
 - BETONSPORTS Indictment

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- f) Monthly Update Reports:
 - Administrative Case Update
 - Seizure Update
 - Congressional Update
- g) News Articles
- Comments from the Public**

3. **New Licenses and Tribal Certifications:**

4. **Petitions for Reconsideration:**

Bruce Marvin, Ast. Atty. General

- a) Nga Tran, Renton – Card Room Employee 3:00 p.m.
- b) Sharkey's Sports Bar & Grill, Mount Lake Terrace 3:15 p.m.

5. **Defaults:**

Amy Hunter, Administrator

- a) Brian Dunn, CRE, Pullman, Revocation
- b) Adam T. Froese, CRE, Spokane, Revocation
- c) Brian A. Long, CRE, Spokane, Revocation
- d) Ian McDonald, Olympia, CRE, Revocation

6. **Summary Suspensions**

Other Business/General Discussion/Comments from the Public

Adjournment

Upon advance request, the Commission will pursue reasonable accommodations to enable persons with disabilities to attend Commission meetings. Questions or comments pertaining to the agenda and requests for special accommodations should be directed to Shirley Corbett, Executive Assistant at (360) 486-3447 or TDD (360) 486-3637. Questions or comments pertaining to rule changes should be directed to Susan Arland, Rules Coordinator and Public Information Officer at (360) 486-3466.

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Location of Meeting:

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Date and Time of Meeting:

Friday, August 11, 2006
9:30 a.m.

7. **Approval of Minutes:** Regular Meeting, July 13 & 14, 2006

Rules Up for Final Action

8. **Petition for Rule Change – GameTech Inc.** **Amy Hunter, Administrator**
Electronic Bingo Card Dauber Billings Based on Cards Sold.

Filed on 02-13-06 as a Pre-Proposal Statement of Inquiry (CR-101) under WSR #06-05-054. Filed 04/21/06 as a Proposed Rule Making (CR-102) under WSR # 06-10-011 with a published date of 05/17/06.

a) **Amendatory Section WAC 230-12-340**

Sale of gambling equipment, devices, supplies, paraphernalia, and related supplies –
Authorized transactions.

b) **Amendatory Section WAC 230-20-244**

Electronic bingo card daubers – Definition – Operation restrictions – Standards.

9. **Financial Statements for House-Banked Card Rooms-Dave Trujillo, Assistant Director**

Filed 01-11-06 as a Pre-Proposal Statement of Inquiry (CR-101) under WSR #06-03-053. Filed 06/20/06 as a Proposed Rule Making (CR-102) under WSR # 06-13-076 with a published date of 07/05/06.

a) **Amendatory Section WAC 230-40-821**

Accounting systems – House-banked card rooms.

b) **Amendatory Section WAC 230-40-823**

Financial statements required - House-banked card rooms.

Please turn telephones and pagers off during meeting sessions

10. Rules Simplification Project Beth Heston, Project Manager

Filed 03/17/06 as a Pre-Proposal Statement of Inquiry (CR-101) under WSR #06-07-108. Filed 06/20/06 as a Proposed Rule Making (CR-102) under WSR # 06-13-077 with a published date of 07/05/06.

a) Chapter 230-11 – Raffles.

Chapter 230-11 won't become effective until 1-01-08.

Rules Up for Discussion and Possible Filing

11. Rules Simplification Project Beth Heston, Project Manager

Filed 05/18/06 as a Pre-Proposal Statement of Inquiry (CR-101) under WSR #06-11-110.

a) Chapter 230-18 – Promotional Contests of Chance.

Chapter 230-18 won't become effective until 1-01-08.

12. Rules Simplification Project Beth Heston, Project Manager

Filed 03/17/06 as a Pre-Proposal Statement of Inquiry (CR-101) under WSR #06-07-109.

a) Chapter 230-09 Fund Raising Events.

Chapter 230-09 won't become effective until 1-01-08.

13. Gambling Service Suppliers

Dave Trujillo, Asst.

Director

Filed on 12-20-05 as a Pre-Proposal Statement of Inquiry (CR-101) under WSR #06-01-083.

a) Amendatory Section WAC 230-02-205

Gambling service supplier defined.

b) New Section WAC 230-02-203

Defining lending agent, loan servicer, or placement agent.

c) New Section WAC 230-02-204

Defining regulated lending institution.

d) Companion Rules Simplification Project Rule

Amendatory Section WAC 230-03-210

Applying for a gambling service supplier license.

This companion rule was previously adopted, but won't become effective until 1-01-08.

e) Companion Rules Simplification Project Rule

New Section WAC 230-03-211

Defining "Lending Agent," "Loan Servicer," or "Placement Agent"

This new companion rule won't become effective until 1-01-08.

f) Companion Rules Simplification Project Rule

New Section WAC 230-03-212

Defining "Regulated Lending Institution"

This new companion rule won't become effective until 1-01-08.

14. Allowing Poker at Fund-Raising Events

Jeannette Sugai, Acting Asst. Director

Filed on 08-24-05 as a Pre-Proposal Statement of Inquiry (CR-101) under WSR #05-17-202.

a) Amendatory Section WAC 230-25-040

Fund-raising event—House rules to be developed and posted—Limitations on wagers.

b) New Section WAC 230-25-045

Poker tournaments at fund-raising events and limited fund-raising events.

c) Amendatory Section WAC 230-25-050

Wagering among participants not permitted.

d) Amendatory Section WAC 230-25-325

Limited fund-raising event – Procedures and restrictions.

15. Other Business/General Discussion/Comments from the Public/Adjournment



Rules Up For Final Action

Proposed Amendments to

WAC 230-12-340 Sale of gambling equipment, devices, supplies, paraphernalia, and related services—Authorized transactions.

WAC 230-20-244 Electronic bingo card daubers—Definition—Operating restrictions—Standards.

ITEM 8 (a)-(b) on the August 11, 2006, Commission Meeting Agenda.

Statutory Authority 9.46.120

Who proposed the rule change?

GameTech International, Inc., a licensed manufacturer of electronic bingo daubers.

Proposed Change

The Petitioner is requesting that manufacturers and distributors be allowed to lease electronic bingo daubers based on the number of bingo cards sold to a device.

History of Rule

On October 10, 2005, language was added to WAC 230-12-340 limiting electronic bingo daubers to be leased based on the number of times a device is used or the number of bingo sessions in which devices are used. Fees cannot be charged based on a percentage of sales, the number of bingo cards sold through the device or the average amount a player spends on a device. This change was made to place restrictions listed in WAC 230-20-244(2)(g) in with all the other sales and lease restrictions.

RCW 9.46.120 states in part that “No part of the proceeds of the activity shall inure to the benefit of any person other than the organization conducting such gambling activities or if such gambling activities be for the charitable benefit of any specific persons designated in the application for a license, then only for such specific persons as so designated.”

WAC 230-02-108 states that “expenses are deemed to be necessary when they are required to operate an activity or they improve the overall profitability of the activity by increasing gross gambling receipts more than the corresponding increase in expenses.”

Allowing electronic bingo daubers to be leased on a per-card fee is equivalent to allowing them to determine the fee based on the percentage of gross receipts.

Impact of the Proposed Change

The Petitioner justifies the proposal in (1) through (6) below:

- 1) They would benefit by having more leasing arrangements available to offer their customers.
- 2) RCW 9.46.120(1) states in part that no part of the proceeds of the gambling activity shall inure to the benefit of any person other than the organization conducting the gambling activity.
- 3) WAC 230-02-108 defines proceeds as all monies remaining from the operation of any gambling activity after payment of prizes and necessary expenses.
- 4) The ability to charge operators on a per-card sold basis does not in any way entitle a person to the proceeds from the operation.
- 5) WAC 230-02-108 states that expenses are deemed to be necessary when they are required to operate an activity or they improve the overall profitability of the activity by increasing gross gambling receipts more than the corresponding increase in expenses.
- 6) The ability to charge an operator based on per-cards sold is the ultimate rationale in satisfying the improvement in profitability criterion, because the operator would never owe anything if nothing is sold.

Currently, manufacturers and distributors must base fees on the number of times an electronic bingo dauber is used, or the number of sessions it is used at. Bingo operators are not billed if the electronic bingo dauber is not used.

This rule change would directly connect billings for electronic bingo daubers to sales of bingo cards.

Regulatory Concerns
There will be a minimal impact on our regulatory programs if this petition is passed.
Resource Impacts
Staff currently monitors compliance with this rule in one step of a compliance module that takes only a few minutes to complete approximately once a year for bingo licensees with electronic bingo daubers. The change will have little effect on our regulatory program.
Policy Consideration
This is a departure from the Commission’s application of RCW 9.46.120, which has not allowed billings to be based on a percentage of sales. The Petitioner has not provided information necessary to determine if this change would increase the overall profitability of the gambling activity and comports with WAC 230-02-108 which states “expenses are deemed to be necessary when they are required to operate an activity or they improve the overall profitability of the activity by increasing gross gambling receipts more than the corresponding increase in expenses.”
<u>Correspondence added after the April 2006, Commission meeting:</u> Letter dated April 19, 2006, to GameTech, Inc., requesting clarification on how this change meets the definition of a necessary expense and what games the petitioner intends to use this billing method on.
<u>Correspondence added after the June 2006, Commission meeting:</u> GameTech’s response letter dated June 8, 2006, does not provide adequate clarification (blue paper). Staff was unable to determine what was meant by “Special Games.” Testimony by District Manager Jeremy Schwank at the June 2006 Commission Meeting was consistent with their letter but not consistent with their proposed rule.
<u>Correspondence added after the July 2006, Commission meeting:</u> At the July meeting, Mr. Schwenk handed out an alternative WAC amendment to his petition. Staff does not support the alternative because it is not clear what is meant by the language. <u>Attachments (blue paper):</u> 1) Mr. Schwenk’s letter dated July 12, 2006, which he handed out at the July Commission meeting. 2) Staff’s letter dated July 18, 2006, to Mr. Schwenk, asking him to work with bingo operators to reach an agreement prior to the August Commission meeting. 3) Mr. Schwenk’s letter dated July 25, 2006, proposing an alternative rule change.
Stakeholder Statements Supporting the Proposed Rule Change
None.
Stakeholder Statements Opposing the Proposed Rule Change
At the June 2006, meeting, Ronnie Strong, a non-profit organization representative, testified that his organization supports the concept, but is concerned about how it will be applied. At the July 2006, meeting, two bingo operators testified they did not understand the alternative amendment distributed at the meeting and did not support the petition.
Licensees Directly Impacted By the Change
Manufacturers, distributors, and operators of electronic bingo daubers.
Staff Recommendation
Staff does not support the original rule change or the rule change distributed by Mr. Schwenk at the July 2006, Commission meeting. Mr. Schwenk submitted an alternative rule change just prior to the publication of this Commission meeting packet, which staff has not had an opportunity to review. Staff will provide a recommendation at the August 2006, Commission meeting.
Proposed Effective Date for Rule Change
The Petitioner requests the change become effective 31 days from filing.

Amendatory Section:

WAC 230-12-340 Sale of gambling equipment, devices, supplies, paraphernalia, and related services — Authorized transactions.

Manufacturers and distributors must not offer credit to operators in the sale of gambling equipment, devices, related supplies or paraphernalia, and services. Manufacturers and distributors must conduct all sales of such to operators on a cash basis. "**Cash basis**" means full payment is received by the seller on or before actual delivery of the product or service to the purchaser.

Capital leases.

(1) All licensed manufacturers and distributors may sell gambling equipment such as dispensers, bingo blowers, roulette wheels, etc., and gambling-related support equipment through capital lease agreements or other financing arrangements to operators subject to the following conditions and requirements:

- (a) The cost of a single item, or group of similar and related items included in the sale, exceeds one thousand dollars;
- (b) The term of the contract does not exceed forty-eight months;
- (c) All terms of the contract are in writing and copies of such agreements are provided to the commission within thirty days of execution;
- (d) The manufacturer or distributor retains only a security interest in the item sold and cannot obtain any ownership interest in the licensee, or exercise any control over the use of the item in the licensed activity;
- (e) The amount of payments is not based on the size or level of gambling activity and is determined by use of a standard amortization schedule for the term and stated interest rate;
- (f) The interest rate charged by the contract is set at the time of sale and does not vary during the term of the contract; and
- (g) The contract does not require the purchaser to directly or indirectly purchase any other products or services from the seller.

Rental or license agreements.

(2) Except for punch boards, pull-tabs, bingo paper, bingo supplies, playing cards, and other consumable gambling-related equipment or devices, manufacturers and distributors may lease or rent gambling equipment to operators. Manufacturers may also enter into license agreements with operators for use of the manufacturer's patented, copyrighted, or trademarked games.

(3) Manufacturers and distributors may only base fee structures for electronic bingo equipment on the number of times a device is used, **the number of bingo cards sold to a device** or the number of bingo sessions in which devices are used. Fees must not be determined by a percentage of sales, ~~((the number of bingo cards sold through the device,))~~ or the average amount a player spends on a device.

Check or credit card purchases.

(4) Operators may purchase goods and services from manufacturers or distributors when paid for by checks, or credit card issued by a state and/or federally regulated financial institution that meet the requirements of WAC 230-12-350.

Exceptions.

(5) All transactions between manufacturers or distributors and tribal governments or companies certified to manage class III gambling activities operated under a tribal/state compact are exempt from all provisions of this section;

(6) Charitable or nonprofit organizations licensed to conduct bingo may purchase bingo cards and bingo supplies from distributors and/or manufacturers and receive such without making immediate payment if payment is made, by check or cash, no later than thirty days after delivery of the product.

Amendatory Section:

WAC 230-20-244 Electronic bingo card daubers — Definition — Operating restrictions — Standards

The commission deems that any device, apparatus, or scheme that allows a player in any gambling activity a material advantage over other players is against public policy and restriction of such is in the public's interest. Electronic bingo card marking devices or daubers are deemed to provide a player a material advantage unless operated in accordance with subsection (2) of this section. For purposes of this title, the following definitions, restrictions, and standards apply to such devices:

Definition.

(1) Electronic bingo card daubers are defined as electronic appliances used by players to identify bingo cards that contain numbers or symbols input by a player. These devices electronically store preprinted bingo cards purchased by a player, provide a means for players to input numbers or symbols called by the operator, compare the numbers or symbols input by the player to bingo cards previously stored in an electronic data base, and identify to the player those stored bingo cards that contain the numbers or symbols input by the player: Provided, That player-owned devices, which are not directly interfaced with or connected to equipment used to conduct bingo games or the electronic data base in which electronically generated bingo cards are stored in any manner, are not "electronic bingo card daubers" for purposes of this title;

Operating restrictions.

(2) Electronic bingo card daubers will not be deemed to provide players a material advantage and may be used by players in bingo games when operated in the following manner:

Player responsibilities.

- (a) The player must perform at least the following functions:
 - (i) Input each number or symbol called by the operator into the memory of the dauber unit by use of a separate input function for each number symbol. Automatic or global marking of numbers or symbols is prohibited;
 - (ii) Notify the operator when a winning pattern or "bingo" occurs by means that do not utilize the dauber unit or the associated system; and
 - (iii) Identify the winning card and display the card to the operator;

Maximum number of cards to be played during each game.

- (b) Each electronic dauber unit shall not allow a player to play more than sixty-six cards at one time.
- (c) Each player shall not use more than one electronic dauber at any point in time. Provided, That a player can play an unlimited amount of disposable or hard bingo cards in addition to using one electronic dauber unit.

Reserving electronic bingo card daubers.

(d) Operators shall not reserve electronic daubers for any player. An operator must devise and disclose to players a scheme for assignment of dauber units to players during each session. Such schemes shall allow all players an equal opportunity to utilize the available dauber units. If a drawing is used to assign dauber units to players, the operator shall ensure that each player

participating in the drawing has an equal chance to win: Provided, That operators that offer electronic dauber units shall reserve at least one device for players with disabilities that would restrict their ability to mark cards and such disabilities are consistent with definitions set forth in the Americans with Disabilities Act (ADA). If there are no requests for use of this unit prior to fifteen minutes before the scheduled start of the session, it may be made available for use by any players;

Fees.

(e) If operators charge players a fee for use of the electronic daubers, such fees must be a flat fee and shall not be based on the number or dollar value of cards purchased. Rental fees shall be considered bingo receipts for purposes of WAC 230-12-020: Provided, That players with disabilities that would restrict their ability to mark cards and such disabilities are consistent with the ADA shall not be required to pay a rental fee or to comply with minimum purchase requirements imposed on all players utilizing electronic daubers. Such players are required to comply with any minimum purchase requirement imposed on all players by an operator;

Card requirements.

(f) Each player utilizing an electronic dauber must have in their possession cards that meet all requirements of WAC 230-20-240 and 230-20-106. Electronic images of cards or faces stored in such devices are for player convenience only and are not bingo cards for purposes of this title;

Leasing by an operator.

(g) If the electronic daubers are leased to an operator, the lease cannot be based in whole or part on the amount of ((bingo card sales or)) rental income derived from such devices; and

Discounts and marketing schemes.

(h) The use of electronic daubers is prohibited when a licensee utilizes any marketing scheme for cards that results in a decrease in the per unit price of each card as the number of cards purchased increases: Provided, That a single discount level is authorized for each type of card sold if:

- (i) The licensee has a minimum purchase requirement;
- (ii) The discount applies to all additional cards purchased; and
- (iii) "All you can play" schemes are prohibited;

Standards.

(3) Electronic bingo card daubers must meet the following standards:

- (a) Be manufactured by licensed manufacturers;
- (b) Be sold, leased, and serviced by licensed distributors or manufacturers: Provided, That operators may perform routine maintenance on devices under their control;
- (c) Not be capable of accessing the electronic computer system in any manner that would allow modification of the program which operates and controls the dauber units or the cards stored in the electronic data base; and
- (d) Be capable of complying with applicable requirements of WAC 230-20-106.



Rule Up For Final Action

Proposed Amendment to

WAC 230-40-821 Accounting systems – House-banked card rooms.

ITEM 9 (a) on the August 11, 2006, Commission Meeting Agenda.	Statutory Authority 9.46.0282 and 9.46.070(12)(14)(20)
Who proposed the rule change?	
Staff.	
Proposed Change	
<p>The proposed changes are to make it clear that house-banked card room applicants and licensees must:</p> <ol style="list-style-type: none"> 1) Ensure their accounting transactions are in accordance with Generally Accepted Accounting Principles (“GAAP”), which is the accounting industry standard; and 2) Ensure their accounting includes all income and expenses for the business entity; and 3) Have their accounting records in place and approved by the Commission prior to licensure. 	
History of Rule	
<p>This rule requires house-banked card room licensees to keep a complete set of accounting records, which have been approved by the Commission. These accounting records must include the details of all receipts and disbursements of the licensee.</p> <p>GAAP requirements are the industry standard for accounting and this rule lists many GAAP requirements. GAAP requirements are currently located in two rules; 1) financial statement rule (WAC 230-40-823); and 2) internal controls rule (WAC 230-40-815).</p> <p>Staff is responsible for ensuring that the monies contributed or loaned to licensees and applicants come from a qualified source. When licensees follow GAAP requirements, we are reasonably assured all owners and substantial interest holders of the business have been identified and the financing structure in the accounting records match the financial structure they submitted with their application.</p> <p>Currently, the rule does not require licensees to have their accounting system in place prior to licensure.</p>	
Impact of the Proposed Change	
<p>The proposed changes make it easier for house-banked applicants and licensees to know what the accounting requirements are. Understanding that they must have an accounting system in place prior to licensure, for their entire business entity, will assist applicants and the Commission staff. In addition, staff will be able to more readily prevent house-banked card rooms, without an accounting system maintained in accordance with GAAP, from receiving a license.</p> <p>Requiring accounting records and transactions of the entity to be maintained in accordance with GAAP prior to licensure, assists both licensee and staff in preparing house-banked card rooms for their financial statement submission at the end of their fiscal year.</p> <p>Requiring licensees to maintain their accounting system in accordance with GAAP ensures consistency in the reporting of business transactions among licensees. In addition, GAAP is the accounting industry’s standard method of recording transactions. Any other method of accounting does not truly reflect an</p>	

accurate picture of the financial position and health of the house-banked card room.

The proposed changes will ensure that house-banked card rooms' accounting systems are maintained in a standardized system for staff to quickly determine compliance.

Regulatory Concerns

The accounting requirements section for house-banked card room licensees and applicants is not clear. Currently, licensees and applicants must look at the internal control rule (WAC 230-40-815) to discover that their accounting must be maintained in accordance with GAAP. The financial statement submission rule (WAC 230-40-823) requires financial statements for the entire business entity.

Changes made after the July 2006, Commission meeting (tan paper):

At the July meeting, Chair Ellis noted that the header for WAC 230-40-821(1) was not consistent with the language in subsection (1). Staff amended the header and text of subsection (1) to reflect that all "revenues, and costs, and expenses" must be recorded.

Resource Impacts

All house-banked card room licensees are required to submit financial statements to the Commission after their fiscal year ends. All licensees have now submitted at least one financial statement to the Commission. The lack of clarity in the accounting system rule was discovered during staff's review of the financial statements.

Policy Consideration

None.

Stakeholder Statements Supporting the Proposed Rule Change

None.

Stakeholder Statements Opposing the Proposed Rule Change

None.

Licensees Directly Impacted By the Change

House-banked card room applicants and licensees.

Staff Recommendation

Adoption.

Proposed Effective Date for Rule Change

January 1, 2007.

August 2006, Version

AMENDATORY SECTION:

WAC 230-40-821 ~~((General accounting))~~ Accounting system records – ~~((House-banking))~~ House-banked card rooms. Every licensee authorized to offer house-banked card games shall keep and maintain a complete set of records, which have been approved by commission staff prior to licensure. Such records shall include all receipts and disbursements of the licensee, including but not limited to those related to gambling activities. ~~((details of activities related to the conduct of the licensed activity.))~~ The following requirements shall apply:

Revenues, costs, and expenses.

(1) Each licensee shall maintain legible, accurate and complete records of all transactions relating to the **revenues, and costs, and expenses** of the gaming operation. These records shall be maintained in a format to ensure consistency, comparability, and effective disclosure of financial information.

~~((General accounting records))~~ **Accounting system.**

(2) The ~~((General))~~ accounting system ~~((records))~~ shall be ~~((maintained on))~~ a double entry system of accounting with transactions recorded on an accrual basis and in conformity with generally accepted accounting principles, to include detailed, supporting, subsidiary records, sufficient to meet the requirements below.

Recordkeeping.

(3) The detailed, supporting and subsidiary records shall include, but not necessarily be limited to:

- (a) Records of all patrons' checks initially accepted, deposited, and returned as "uncollected," and ultimately written off as "uncollectible";
- (b) Statistical game records to reflect drop and win amounts for each table, for each game, and for at least each period for which the drop boxes are removed, which shall be at the minimum, the end of each gaming day;
- (c) Records of investments in property, including, but not limited to, equipment used directly in connection with the gaming operation;
- (d) Records of amounts payable by the gaming operation;
- (e) Records which identify the purchase, receipt, and destruction of all cards and gaming chips used in wagering; and
- (f) Records of services provided for the operation of gaming activities.

Copies.

(4) Whenever duplicate or triplicate copies are required of a form, record or document:

- (a) The original, duplicate, and triplicate copies shall be color-coded;
- (b) If under these standards, forms, records, and documents are required to be inserted in a locked dispenser, the last copy shall remain in a continuous unbroken form in the dispenser; and
- (c) If under these standards, forms or serial numbers of forms are required to be accounted for or copies of forms are required to be compared for agreement and exceptions noted, such exceptions shall be reported immediately to the commission for investigation.

Storing documents.

- (5) All forms, records, documents and stored data required to be prepared, maintained and controlled shall:
 - (a) Have the title of the form, record, document, or stored data (such as "fill slip," "request for fill," "credit slip," "request for credit," "reconciliation," etc.), imprinted or preprinted thereon or therein; and
 - (b) All records shall be maintained for a period of not less than three years. At least the past six months of gambling records must be available for inspection on premises.

Employee records.

- (6) Licensees shall maintain a records system that ensures all applicable employees have met licensing requirements. The system shall be maintained on the premises and include the following:
 - (a) Employee names;
 - (b) Gambling license numbers;
 - (c) Gambling license expiration dates; and
 - (d) Photocopies of all current employees' licenses.

Record of employees who have not yet received a license.

- (7) If an employee license has not yet been issued, the licensee shall maintain a copy of the following:
 - (a) Temporary employment authorization;
 - (b) Documentation that the required payment (license or transfer fee) has been made; and
 - (c) Proof that the employee has adhered to the ten-day waiting period, if applicable.

Notification - new license not received.

- (8) The licensed card room operator shall ensure commission staff is notified if an employee license has not been received within sixty days of employment.



Rule Up For Final Action

Proposed Amendment to

WAC 230-40-823

Financial statements required - House-banked card rooms.

ITEM 9 (a) on the August 11, 2006, Commission Meeting Agenda.

Statutory Authority 9.46.0282
and 9.46.070(12)(14)(20)

Who proposed the rule change?

Staff.

Proposed Change

With the popularity of poker, many house-banked card room licensees now offer poker with their house-banked games. Licensees have been confused about whether they need to report gross receipts from poker with their gross receipts from house-banked card games in determining the type of financial statement that they need to submit. Language has been added to clarify that house-banked card rooms must include receipts from all house-banked and nonhouse-banked card games offered by the licensee when determining the type of financial statement they should submit to the Commission. This will provide consistency among all house-banked card rooms regarding the type of financial statements they submit.

Staff is also proposing the rule be changed to provide more information to licensees about the submission requirements, such as adding a definition so licensees know exactly what documents they must submit, i.e., balance sheet, income statement, statement of cash flows, etc. This will ensure the consistency of information submitted by all house-banked card rooms.

Currently, licensees must use an independent, certified public accountant. The rule does not define what "independent" means. Therefore, a definition has been added to the rule.

History of Rule

This rule originated in 2000, to require all house-banked card room licensees with gross receipts in excess of \$5 million to submit audited financial statements to the Commission.

In 2004, house-banked card rooms were concerned that Activity Reports showed only the net income/loss for a portion of their business, the card room, and did not show the activity for the whole business, such as losses in the food and beverage portion of the business. Licensees requested the Commission change the Activity Reports to require licensees to report income and expenses for their overall business entity. This was not a viable solution since the Commission did not have the resources to ensure the revenues and expenses reported for the overall business entity were accurate.

As an alternative to increasing activity reporting requirements, this rule was amended to require all house-banked card room licensees to submit audited, reviewed, or compiled financial statements to the Commission. The type of financial statement required is based on the house-banked card room's gross receipts. The amendments were adopted as an alternative to house-banked card rooms' requests to submit information that would more accurately reflect the operation of their overall business rather than just their gambling operations.

Requiring financial statements to be submitted from all house-banked card rooms has reduced staff time in both the Financial Investigations Unit and Field Operations. We are now able to quickly identify compliance problems after reviewing the financial statements of house banked card rooms each year.

<p>Financial statements must be prepared by an independent, certified public accountant. The financial statements allow staff to monitor house-banked card rooms for undisclosed substantial interest holders; undisclosed loans, leases, and agreements, and overall compliance with the accounting and reporting rules, which supports the Commission's mission.</p> <p>Staff is also using the information reported in the financial statements as a way to assess the risk of noncompliance. Staff can then focus resources on the house-banked card rooms that it determines to be more of a risk, and less time on those that maintain compliance.</p>
Impact of the Proposed Change
<p>These proposed changes will ensure that the financial statement submissions from house-banked card rooms are more comparable because they are prepared by an independent, certified public accountant; each licensee submits the same financial information; and each licensee includes poker gross receipts when determining the type of financial statements required to be submitted.</p> <p>All house-banked licensees were required to submit financial statements for fiscal years ending after July 1, 2004. Therefore, all licensees have now submitted financial statements at least one time. These three items staff is seeking to clarify were common questions by licensees. Clarifying these items in the rule will assist licensees.</p>
Regulatory Concerns
<p>The amendment will ensure all house-banked card rooms submit the same type of financial reports and information to the Commission. In addition, inconsistencies will be eliminated in reporting among house-banked card rooms.</p>
Resource Impacts
<p>Staff expects less time will be spent answering questions from licensees.</p> <p>Staff will be more assured of the information presented since we are clearly defining who must prepare the financial statements and the information required to be presented.</p>
Policy Consideration
<p>Poker receipts were intended to be included in the calculation of house-banked card room gross receipts for determining the type of financial statement to be submitted. Licensees who receive a house-banked card room license are allowed to offer both house-banked and nonhouse-banked card games. This is allowed under RCW 9.46.0282. The proposed changes will make reporting consistent.</p>
Stakeholder Statements Supporting the Proposed Rule Change
None.
Stakeholder Statements Opposing the Proposed Rule Change
None.
Licensees Directly Impacted By the Change
House-banked card rooms.
Staff Recommendation
Adoption.
Proposed Effective Date for Rule Change
January 1, 2007.

AMENDATORY SECTION:

WAC 230-40-823 Financial ~~((audits and reviews))~~ statements required ((--House-banking)) House-banked card rooms. Each licensee ~~((operating))~~ authorized to offer house-banked card games shall prepare financial statements covering all financial activities of the licensee's establishment for each business year. The following definitions and requirements shall apply:

(1) The following definitions shall apply to all subsections of this rule:

(a) "Financial statements" shall include at least the following: balance sheet, statement of income, statement of retained earnings or changes in equity, statement of cash flows, and all required notes or disclosures. All financial statements must be in accordance with United States generally accepted accounting principles.

(b) "Card room gross receipts" shall include receipts from all house-banked and nonhouse-banked card games offered by the house banked card room.

(c) "Independent" means there is no relationship that may influence a certified public accountant's impartiality and objectivity in rendering services.

Audited financial statements - gross receipts over three million dollars.

~~((4))~~ (2) Each licensee with ~~((house-banked card game))~~ card room gross receipts in excess of three million dollars for the business year shall engage an independent, certified public accounting firm licensed by the Washington state board of accountancy who shall audit the licensee's financial statements in accordance with generally accepted auditing standards.

Reviewed financial statements - gross receipts of one to three million dollars.

~~((2))~~ (3) Each licensee with ~~((house-banked card game))~~ card room gross receipts of one to three million dollars for the business year shall engage an independent, certified public accounting firm licensed by the Washington state board of accountancy who shall review the financial statements in accordance with the statements on standards for accounting and review services or audit the financial statements in accordance with generally accepted auditing standards.

Compiled financial statements - gross receipts of less than one million dollars.

~~((3))~~ (4) Each licensee with ~~((house-banked card game))~~ card room gross receipts of less than one million dollars for the business year shall engage an independent, certified public accounting firm licensed by the Washington state board of accountancy who shall compile the financial statements in accordance with the statements on standards for accounting and review services in accordance with generally accepted accounting principles, including all required ~~((foot))~~ notes or disclosures on an accrual basis of accounting.

Financial statement presentation.

~~((4))~~ (5) The financial statements must be presented in the following manner:

(a) Financial statements shall be submitted on a comparative basis: Provided, That the first year may be submitted for the current business year only; and

(b) Gross revenues from each licensed activity should be reported by activity and separate and apart from all other revenues.

Consolidated financial statements.

~~((5))~~ (6) Consolidated financial statements may be filed by commonly owned or operated establishments. These statements must include consolidated schedules presenting separate financial statements for each licensed card room location.

Change in business year.

~~((6))~~ (7) If a licensee changes its business year, they shall notify the director within thirty days. The licensee shall submit financial statements for the period covering the end of the previous business year to the end of the new business year.

Filing with the commission.

~~((7))~~ (8) A copy of the report and the financial statements shall be submitted to the director within one hundred twenty days following the end of the licensee's business year. The director may authorize a sixty-day extension if a licensee submits a written request explaining the need for the extension.

~~((Effective date.~~

~~-(8) This rule will be effective for business years ending on or after July 1, 2004.))~~

Chapter 11

Raffle Rules

Rules Up for Final Action

ITEM 10:

a) Rules Simplification Project

Chapter 11

Raffle Rules

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Rules for All Raffles

Conducting a Raffle

230-11-001 "Licensees," "licensee," "organizations," and "organization" defined.

(1) In this chapter, "licensee" and "licensees" means those charitable or nonprofit organizations which we require to be licensed to conduct raffles.

(2) "Organization" and "organizations" means all bona fide charitable or nonprofit organizations conducting unlicensed raffles authorized by RCW 9.46, including those authorized by RCW 9.46.0315 and RCW 9.46.0321.

[Statutory Authority: RCW 9.46.070 (14) and (20).]

230-11-005 Display the raffle license.

Licensees conducting a raffle must prominently display the raffle license or a copy of the license at the site and time of the drawing.

[Statutory Authority: RCW 9.46.070 (14).]

230-11-010 Number tickets consecutively.

All raffle tickets must:

- (1) Be consecutively numbered; or
- (2) Be printed with letters or symbols which do not repeat within the population of all tickets sold for a particular raffle.

[Statutory Authority: RCW 9.46.0277 and RCW 9.46.070 (8), (11) and (14).]

230-11-012 Licensees may conduct a joint raffle.

Raffle licensees may jointly conduct a raffle if:

- (1) Licensees maintain in writing the method by which the income, expenditures for prizes, and all other expenses, received and expended in connection with the raffle will be divided among them; and
- (2) One licensee sets up a separate bank account into which all of the proceeds from the raffle are deposited and from which all of the expenses in connection with the raffle, including but not limited to, all payments for prizes, are made; and
- (3) Participating licensees keep records which clearly disclose the amount of money received or each licensee expends in connection with the raffle and the purpose(s) for which the money was spent; and
- (4) Licensees count all gross receipts that each participating licensee received toward their gross receipts limit.

[Statutory Authority: RCW 9.46.070 (8), (11) and (14).]

Selling Tickets

230-11-015 Provide rules to participants.

At the time of purchase, organizations must inform all participants by either printing on the participant's portion of the ticket or otherwise providing to each participant, in writing, of the following:

- (1) All rules by which prizes may be won in the raffle; and
- (2) The cost of each ticket; and
- (3) All prizes available, whether cash or merchandise; and
- (4) Date, time, and location of drawing; and
- (5) Whether a participant is required to be present at the raffle drawing in order to be eligible to win a prize; and
- (6) Name of the organization conducting the raffle.

[Statutory Authority: RCW 9.46.070 (14) and (20).]

230-11-020 Record information on ticket stub.

If an organization sells raffle tickets to the general public or conducts raffles that do not require the winner to be present at the drawing, the organization must include a stub or other detachable section bearing a number, letter, or symbol matching the number, letter, or symbol on the ticket or object representing the player's ticket. The organization's portion must include the participant's name, complete address, telephone number, and other information necessary to notify the winner.

[Statutory Authority: RCW 9.46.070 (14).]

230-11-025 Bundling and selling tickets at a discount.

(1) Licensees may put tickets together in a bundle and sell them at a discount if they:

- (a) Create the discount plan before selling any raffle tickets; and
- (b) Do not change the discount plan during the raffle; and
- (c) Make single nondiscounted tickets available to all participants; and
- (d) Use only one discount plan for each raffle; and

(2) Booklets of bundled discounted tickets must contain the number of tickets named in the discount plan; and

(3) Licensees must not remove tickets from a booklet to sell them individually; and

(4) Each booklet of bundled tickets must have the following information printed on the cover:

- (a) A description of the discount plan; and
- (b) The number of tickets in the booklet; and
- (c) The total cost of the booklet; and
- (d) A consecutive number; and

(5) Licensees must establish controls and accounting procedures necessary to determine gross gambling receipts from ticket sales.

[Statutory Authority: RCW 9.46.070 (8), (11), and (14).]

230-11-030 Restrictions on ticket sales.

(1) Only members of the organization or volunteers under the supervision of a member may sell tickets; and

(2) Organizations must sell all tickets for a particular raffle for the same price unless offering an authorized discount plan; and

(3) Organizations must not:

(a) Sell raffle tickets via the internet; or

(b) Require anyone to purchase more than one raffle ticket; or

(c) Give away raffle tickets; or

(d) Give an opportunity to participate in a raffle drawing to a person who has not purchased a ticket.

[Statutory Authority: RCW 9.46.070 (11), (14) and (20); RCW 9.46.0277.]

230-11-035 Incentives for selling tickets.

(1) Organizations must not pay members or volunteers for selling tickets or managing or operating a raffle, unless the person is a full-time or part-time employee of the organization with duties other than selling tickets or managing or operating raffles.

(2) Licensees may provide members or volunteers with noncash incentives for selling tickets if the licensee:

(a) Bases the incentives on the number of tickets sold; and

(b) Gives incentives that do not exceed five percent of the gross gambling receipts of the raffle; and

(c) Maintains a record of the name, address, and telephone number of all persons receiving incentives.

[Statutory Authority: RCW 9.46.0277. RCW 9.46.070 (8), (11), and (14).]

Drawing Tickets

230-11-040 Place ticket stubs in receptacle for drawing.

Each person who sells a raffle ticket must give the organization all ticket stubs or other detachable sections of all tickets sold. The organization must place each stub or other detachable section of each ticket sold into a receptacle from which the organization will draw the winning tickets unless they use one of the authorized alternative drawing formats.

[Statutory Authority: RCW 9.46.0277. RCW 9.46.070 (14) and (20).]

230-11-045 Draw winning tickets randomly.

A "drawing" means a random selection process for determining winners in a raffle. To be random, each ticket in the drawing must have an equal and fair chance of being drawn as a winner. Organizations must design the ticket drawing receptacle so that each ticket has an equal opportunity to be drawn.

[Statutory Authority: RCW 9.46.0277. RCW 9.46.070 (14) and (20).]

230-11-050 Using alternative drawing formats.

Licensees may use alternative drawing formats that randomly determine winners if licensees:

- (1) Fully disclose to each player the random selection process used in the alternative drawing format before selling tickets; and
- (2) Maintain a copy of the disclosure with the permanent raffle records; and
- (3) Use controls and accounting procedures that:
 - (a) Provide the ability to audit gross gambling receipts from ticket sales; and
 - (b) Have sufficient controls to prevent manipulation of the random selection process; and
 - (c) Document the random selection process.

[Statutory Authority: RCW 9.46.070 (8) and (14).]

230-11-055 Authorized alternative drawing formats.

Licensees may use the following types of alternative drawing formats or similar random selection processes:

Mock races.

- (1) The licensee sells participants consecutively numbered tickets that identify a specific corresponding numbered mock animal(s), ball(s), or other similar object(s) that can use natural elements to move the objects (water, gravity, wind) in a race. All objects must be identical in weight, size, and shape, to have an equal opportunity to win. The licensee must release all objects simultaneously at a start line. The first numbered object to cross the finish line wins.

Poker runs.

- (2) The licensee sells participants consecutively numbered tickets or poker tally sheets to participants. Participants travel a predetermined course with predetermined drawing stations (typically five drawing stations). At each drawing station, participants draw one playing card for each ticket purchased. Station attendants must verify the card drawn and record the card value on the poker ticket tally sheet. After all participants have completed the course, the participant with the best recorded poker hand wins.

Ball drops.

- (3) The licensee sells participants consecutively numbered tickets that identify a specific corresponding numbered ball. All balls must be equal in size, weight, and shape, to have an equal opportunity to win. The licensee suspends all purchased numbered balls in the air and simultaneously releases them over a target zone. The ball, closest or first, to hit the predetermined target wins.

Animal plops.

- (4) The licensee sells participants consecutively numbered tickets that identify a specific corresponding square on a numbered grid. The licensee releases the animal into the grid area until the animal has completed its plop. The numbered square containing the plop wins.

Multiple stage drawings.

- (5) The licensee sells participants consecutively numbered tickets. The licensee uses multiple drawing phases to eliminate participants until the licensee declares the remaining ticket holder(s) the winner(s). The licensee may use second element of chance plans as long as the plans meet the criteria set out in WAC 230-11-060.

Bucket raffles.

- (6) The licensee sells participants consecutively numbered tickets. Participants place their tickets into any number of separate buckets or other receptacles for separate prizes. We consider the multiple drawings one single raffle. If licensees use different tickets for each receptacle, we consider each drawing an individual raffle.

Calendar raffles.

- (7) The licensee sells participants consecutively numbered calendars with removable stubs. The licensee places all sold calendar stubs into the drawing receptacle. On predetermined dates identified on the calendar, the licensee conducts drawings. The licensee places all winning stubs back into the drawing receptacle for future drawings.

[Statutory Authority: RCW 9.46.070 (11), (14), and (20).]

230-11-060 Using a second element of chance in an alternative drawing format raffles.

Licensees may use second elements of chance in alternative drawing format raffles to:

- (1) Determine the final prize winner. For example: Ten finalists are drawn and each finalist chooses a key. The finalist with the key that starts the vehicle wins; or
- (2) Determine which prize is awarded among a group of prizes. For example: Each winner selects one of three keys and each wins the contents of the safe which the key unlocks; or

- (3) Increase the prize award. For example: The winning ticket matches a predetermined sequence of numbers and wins an additional prize.

[Statutory Authority: RCW 9.46.070 (11) and (14).]

Prizes

230-11-065 Own prizes for raffles before drawing date.

(1) Organizations must own the prizes offered to winners before the date of the drawing. However, if the winner has an option to receive a cash prize instead of the merchandise, the organization may enter into a contract to purchase the merchandise prize after the winner chooses his or her option. The organization must have the funds to make the purchase on account before the date of the drawing.

(2) At the time and date of any raffle drawing, the organization must have on deposit an unencumbered amount of money that is equal to or greater than all cash prizes being offered in the raffle. The organization must have these funds deposited in the gambling receipts account, if required, or in a recognized Washington state depository authorized to receive funds. The organization must not reduce the balance of funds available from this account below the required amount before awarding the prize(s).

(3) Raffle prizes must:

- (a) Be available at the time and place of the drawing; and
- (b) If cash, be United States currency or an equivalent amount of negotiable instruments; and
- (c) For licensees, not exceed \$40,000 per prize or \$80,000 in total raffle prizes in a license year. The commissioners may vote to permit licensees to exceed these limits on specific occasions if the licensees show good cause in writing.

[Statutory Authority: RCW 9.46.070 (9), (11), and (14).]

Conducting a Members-Only Raffle

230-11-070 Defining "members-only" raffles.

A "members-only raffle" means a raffle where the organization sells tickets only to full and regular members and a limited number of guests. All aspects of the raffle must take place during the same event at the same location. Winners must be determined from among those members and guests that have purchased tickets.

[Statutory Authority: RCW 9.46.0315; RCW 9.46.0321; RCW 9.46.070 (11) and (14).]

230-11-075 Limit number of guests for members-only raffles.

The total number of guests participating in a raffle must not exceed twenty-five percent of the total attendance of the meeting. The organization must maintain records to show compliance with this requirement.

[Statutory Authority: RCW 9.46.070 (8), (11), and (14).]

230-11-080 Post rules of play for members-only raffles.

Organizations must either post a sign at each point where they sell tickets to provide participants with all rules of play or print the rules on the raffle tickets.

[Statutory Authority: RCW 9.46.070 (11) and (14).]

230-11-085 Modified and discounted pricing plans for tickets for members-only raffles.

(1) Licensees may use modified ticket pricing plans at members-only raffles when gross revenues do not exceed five thousand five dollars. An example of a modified pricing plan is a penny raffle. A penny raffle is a raffle where licensees sell five hundred consecutively numbered tickets. Participants randomly choose tickets and pay the consecutive number of the ticket multiplied by a pre-determined cost, for instance, one penny.

(2) In discounted pricing plans, licensees may sell tickets to enter a raffle for different values, not to exceed ten dollars for a single ticket, if the licensee:

- (a) Tells the players the pricing plan before selling them a ticket to participate. The licensee must tell the player the total number of tickets in the population available and the number of tickets at each price level; and
- (b) Allows participants to randomly select their ticket from the population of remaining tickets and pay the amount printed on the ticket they select; and

- (c) Establishes records for an adequate audit trail to determine gross gambling receipts; and
- (d) Holds no more than two such drawings during a meeting or event; and
- (e) Sells multiple tickets to enter one or more drawings as a package and the total price of the package does not exceed twenty-five dollars.

(3) Licensees may include tickets to enter a raffle as a part of a package that includes dues, entertainment, or other fund-raising activities if:

- (a) The licensee discloses the value of each component of the package to the purchaser; and
- (b) The value of each individual raffle ticket does not exceed twenty-five dollars.

(4) The licensee must not include tickets to enter raffles or to participate in any gambling activities with applications for membership or as part of membership fees.

(5) Licensees may sell tickets for a discounted price based on the number of tickets a player purchases if:

- (a) The amount of the discount is set before any raffle tickets are sold; and
- (b) Participants are allowed to purchase a single ticket; and
- (c) There is only one discount plan for each raffle; and
- (d) The cost of a single ticket, without a discount, does not exceed ten dollars; and
- (e) The total cost of a discount package does not exceed twenty-five dollars; and
- (f) The cost of a single ticket is printed on each ticket (for example, one dollar each); and
- (g) The discounted tickets are identified by a unique ticket audit numbering system; and
- (h) The licensee establishes an audit system that includes internal controls and procedures to determine gross gambling receipts from the sale of tickets using a modified pricing plan.

[Statutory Authority: RCW 9.46.070 (8), (11) and (14).]

230-11-090 Authorized alternative drawing formats for members-only raffles.

Licensees may use alternative drawing formats set forth in WAC 230-11-055 for members-only raffles as long as the licensee meets all requirements set out in that rule. Licensees also may use the following alternative drawing formats or similar random selection processes for members-only raffles:

Mock animal races.

- (1) The licensee sells participants consecutively numbered tickets to participants to wager on a specific mock animal in a field of mock animal racers, typically five to ten racers. The mock animals race in individual lanes divided into equal spaces or squares; for example, bingo boards are sometimes used as race lanes. Animals move forward based on the numbers rolled on dice or balls drawn from a set of bingo balls. The first mock animal to cross the finish line is the winner. All winning ticket holders split the prize pool or the licensee may hold a drawing of winning tickets to determine a single winner.

Video races.

- (2) The licensee sells consecutively numbered tickets/race forms to participants to wager on the outcome of an unknown videotaped race, typically horse races. The previously-taped races must be obtained from an outside source and participants must have no knowledge of the specific race outcome before conducting the video race drawing. Participants wager on the specific racers, identified by numbers, or a specific race lane. All participants holding a winning race number ticket or winning lane number ticket are the winners. All winning ticket holders split the prize pool or the licensee may hold a drawing of winning tickets to determine a single winner.

Paddle wheel raffles.

- (3) The licensee sells numbered paddles or numbered tickets to participants that correspond to numbered spaces on a balanced, spinning wheel. The licensee spins the wheel at least one full revolution. The ticket that matches the number that the wheel stops on is the winning ticket.

Card deck raffle

- (4) The licensee sells a single playing card or similar object to participants. The card is then torn or cut in half and one half is placed in the drawing receptacle. The participant holds the other half until the drawing takes place. The holder of the matching half to that drawn is the winner.

[Statutory Authority: RCW 9.46.070(11) and (14).]

Recordkeeping for Raffles

230-11-095 Recordkeeping requirements for Class A through D licensees and unlicensed raffles.

Class A through D licensed raffles and unlicensed raffles authorized by RCW 9.46.0315 or 9.46.0321 must keep a record by month of the following:

- (1) Gross receipts; and
- (2) Prizes paid; and
- (3) Net income; and
- (4) Documentation of expenses; and
- (5) Documentation of how the proceeds were used.

[Statutory Authority: RCW 9.46.0315; RCW 9.46.0321; RCW 9.46.070 (8), (11), and (14).]

230-11-100 Recordkeeping requirements for Class E and F licensees and raffles using alternative drawing formats.

Licensees conducting Class E or Class F raffles or conducting raffles using alternative drawing formats must prepare a detailed record for each raffle they conduct. Licensees must:

- (1) Record all data required in the standard format we provide; and
- (2) Maintain the following:
 - (a) Validated deposit receipts for each deposit of raffle proceeds; and
 - (b) All winning tickets; and
 - (c) The name, address, and telephone number of all winners of a prize with a fair market value of more than fifty dollars; and
 - (d) All ticket stubs for raffles that do not require participants to be present at the drawing; and
 - (e) All unsold tickets for individual raffles for which gross gambling receipts exceed five thousand dollars; and
 - (f) Invoices and other documentation recording the purchase or receipt of prizes; and
 - (g) Invoices and other documentation recording the purchase of tickets and other expenses of the raffle; and
- (3) Complete all records no later than thirty days following the drawing.

[Statutory Authority: RCW 9.46.070 (8), (11), and (14).]

230-11-105 Retain and store raffle records.

- (1) Records for unlicensed raffles must be kept for one year following the date of the raffle drawing.

- (2) Records for licensed raffles must be kept for three years from the end of the licensees' fiscal year in which the raffle was completed.
- (3) Organizations must keep all records at the main administrative or business office of all organizations that are located in Washington and have the records available for our review or audit.
- (4) Organizations that do not have an administrative or business office must have and designate a records custodian that resides in Washington.
- (5) We may allow an organization to maintain records outside the state of Washington if the organization submits a written request. We may withdraw this permission at any time.

[Statutory Authority: RCW 9.46.130; RCW 9.46.070 (8), (11), and (14).]



Rule Up For Filing

New Section
WAC 230-09-150

Operating a limited fund raising event.

ITEM 11 (a) on the August 11, 2006, Commission Meeting Agenda.	Statutory Authority 9.46.070
Who proposed the rule change?	
Staff.	
Proposed Change	
<p>This rule change has to do with the "cost" versus the "value" of prizes fund raising event (FRE) licensees offer during limited FREs. Licensees are required to pay fair market value for prizes, but that payment amount may not exceed ten percent of the gross revenue from the event. In the rewrite of this rule, we attempt to clarify the difference between "value" which is subjective and "cost" which is objective. The cost of an item, for example, can be verified by a receipt.</p>	
History of Rule	
<p>WAC 230-25-325(5), stated, "The <u>value</u> of all purchased prizes must not exceed ten percent of the gross revenue from the event, less the cost of the FRE equipment rental contract."</p> <p>In the newly rewritten rule, staff clarified this rule by stating that licensees must, "(e) Prevent the <u>cost</u> of all prizes from exceeding ten percent of the gross revenue of the event..."</p> <p>We are not changing the rule in any way. The rewrite merely clarifies the difference between "cost" and "value" which was unclear in the old rule.</p>	
Impact of the Proposed Change	
The change clarifies a long-standing interpretation.	
Regulatory Concerns	
None.	
Resource Impacts	
None.	
Policy Consideration	
None.	
Stakeholder Statements For the Proposed Rule Change	
None.	
Stakeholder Statements Against the Proposed Rule Change	
None.	
Licensees Directly Impacted	
Fund raising event licensees.	
Staff Recommendation	
Approval of the rule.	
Proposed Effective Date for Rule Change	
January 1, 2008.	

230-09-030 Operating a limited fund raising event.

(1) Licensees must:

- (a) Make participants purchase scrip with cash; and
- (b) Exchange scrip at gambling stations for chips; and
- (c) Allow only full and regular members to make transactions of cash for scrip and maintain records during the FRE; and
- (d) Disclose the prizes offered. The costs of prizes must not exceed fair market value. The organization may advertise the prize to the public at the retail value; and
- (e) Prevent the cost of all prizes from exceeding ten percent of the gross revenue of the event; and
- (f) Comply with all other FRE rules.

(2) Licensees may allow unlimited wagering when using scrip.

[Statutory Authority: RCW 9.46.0233 and RCW 9.46.070 (11), (14) and (20).]

~~230-25-325 Limited fund raising event — Procedures and restrictions.~~

~~Pursuant to RCW 9.46.0233(2), nonprofit or charitable organizations may offer *limited* fund raising events (FREs). Organizations offering *limited* FREs must operate the FRE under the following operational procedures:~~

~~Operating procedures.~~

~~(1) Only members of the organization and their guests shall participate in the event. The event shall not be open to the general public.~~

~~(2) Participants shall purchase scrip with cash.~~

~~(3) Scrip shall be exchanged at gambling stations for chips.~~

~~(4) Only bona fide members will be utilized for all transactions involving acceptance of cash for scrip, conducting the schemes to determine the winners of merchandise prizes, and maintaining records during the event.~~

~~(5) The value of all purchased prizes must not exceed ten percent of the gross revenue from the event, less the cost of the FRE equipment rental contract.~~

~~(6) Any prizes purchased from the FRE equipment distributor must be disclosed. The cost may not exceed the fair market value. Prizes may be disclosed to the public at the retail value.~~

~~[Statutory Authority: RCW 9.46.070. 00-15-048 (Order 387), § 230-25-325, filed 7/17/00, effective 8/17/00.]~~

Chapter 18

Promotional Contests of Chance

Rules Up for Discussion and Possible Filing

ITEM 11:

a) Rules Simplification Project

Promotional Contests of Chance

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230-18-010 Promotional contests of chance similar to bingo. 1

230-18-015 Promotional game cards used in promotional contests of chance. 1

230-18-005 Telephone fees deemed "consideration."

Participants may be required to place a telephone call to enter a promotional contest of chance, but additional fees such as those for a 1-900 number are "consideration" and are not authorized.

[Statutory Authority: RCW 9.46.0356 and RCW 9.46.070.]

230-18-010 Promotional contests of chance similar to bingo.

A business may offer a promotional contest of chance (PCOC) that is similar to bingo, commonly referred to as "no fee bingo."

(1) A business must not:

(a) Charge participants a direct or indirect fee to participate in the PCOC.

Indirect fees include, but are not limited to, cover charges; and

(b) Operate the PCOC for no more than a total of three hours per day, twice per week. Participants must receive a bingo card immediately before the start of each game.

(2) A business must:

(a) Award only merchandise items, such as food, nonalcoholic beverages, hats, shirts, or other promotional items valued at less than twenty-five dollars each. The business must:

(i). Not substitute cash prizes for merchandise prizes; and

(ii). Not award prizes worth more than one hundred dollars per week or five thousand dollars per year; and

(iii). Record the names of winners and prize(s) won for each game; and

(b) Use recreational bingo cards that are not used in authorized bingo games.

[Statutory Authority: RCW 9.46.0356. RCW 9.46.070.]

230-18-015 Promotional game cards used in promotional contests of chance.

(1) A business may use promotional game cards similar to pull-tabs as part of a promotional contest of chance (PCOC) if the game cards:

(a) Are readily distinguishable from other pull-tabs sold in the state of Washington; and

(b) Are designed and manufactured for a specific PCOC; and

(c) Clearly display the name of the sponsoring business or the promoted product(s); and

(d) Have no price per play on the card; and

(e) Have the official rules of play, including "no purchase necessary," printed on the back.

(2) We may seize PCOC game cards that violate these restrictions.

[Statutory Authority: RCW 9.46.231. RCW 9.46.0356. RCW 9.46.070.]

Chapter 09

Fund Raising Event Rules

Rules Up for Discussion and Possible Filing

ITEM 12:

a) Rules Simplification Project

Chapter 09

Fund Raising Event Rules

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Conducting Fund Raising Events

230-09-001 Purpose.

Licensees may only hold fund raising events (FREs) to raise funds for organizational purposes. Licensees must operate the FRE with a profit motive. A “profit motive” means a gambling activity conducted for purposes of obtaining funds for a charitable or nonprofit organization's programs. FRE licensees must make a good faith effort to ensure that the expenses paid for all phases of the FRE are less than the total gross receipts received.

[Statutory Authority: RCW 9.46.0233; RCW 9.46.070.]

230-09-005 Notify local law enforcement.

Licensees must notify local law enforcement agencies in writing of the time and place of the fund raising event (FRE) at least ten days before conducting the FRE.

[Statutory Authority: RCW 9.46.0233; RCW 9.46.070.]

230-09-010 Ten thousand dollars net receipts limit.

(1) The calendar year net receipt limits of RCW 9.46.0233 apply to all fund raising event (FRE) licensees. Net receipts are all wagers and bets received minus money used to purchase prizes and pay out cash prizes.

(2) Any licensees exceeding the calendar year net receipt limit must distribute excess net receipts within thirty days to another bona fide charitable or nonprofit organization that either:

- (a) We license; or
- (b) Meets the criteria set forth in RCW 9.46.0209.

[Statutory Authority: RCW 9.46.070.]

230-09-015 Fund raising events on December 31.

Licensees who hold fund raising events (FREs) which continue past midnight on December 31 into the new calendar year may treat each hour of the event held as if the hours had occurred solely in the calendar year recorded on their license application. These hours are counted in computing and applying limits on the net receipts and on the number of FREs, or consecutive hours of those FREs, in the calendar year for which the license was issued.

[Statutory Authority: RCW 9.46.0233; RCW 9.46.070.]

230-09-020 Post house rules.

Licensees must develop house rules to govern the scope and manner of all gambling activities they will conduct during the fund raising event (FRE) and prominently post these rules in the area where they will conduct the FRE. At a minimum, these rules must:

- (1) State that single wagers must not exceed ten dollars. Raffle wagers may exceed ten dollars, but must not exceed the limits set forth in RCW 9.46.0277; and
- (2) Prohibit tipping.

[Statutory Authority: RCW 9.46.070.]

230-09-025 No wagering among participants.

Licensees must not allow any participants at fund raising events (FREs) to wager money or other items of value against any other participant, such as in side bets in poker, at the FRE.

[Statutory Authority: RCW 9.46.0233; RCW 9.46.070.]

230-09-030 Use chips or scrip.

Licensees must use chips or scrip or coin for wagering at fund raising events (FREs). *Limited* FRE licensees must use chips and scrip only. Licensees must issue the chips or scrip only during and at the FRE itself. Licensees must not redeem chips or scrip after the FRE has concluded.

[Statutory Authority: RCW 9.46.0233. RCW 9.46.070.]

230-09-035 Prepare membership list.

Fund raising event (FRE) licensees must prepare a list of all persons from their organizations participating in the management or operation of the FRE. The list must be available on the premises of the FRE and contain, at a minimum, the name, address, telephone number, and a brief statement signed by the chief executive officer certifying that each member listed is a full and regular member of the organization; and

[Statutory Authority: RCW 9.46.0233. RCW 9.46.070.]

230-09-040 Separation of duties for central accounting system required.

Licensees must set up and maintain a central accounting system in a format we prescribe for all activities conducted at the fund raising event (FRE). Licensees must obtain accounting forms from us. The central accounting system must provide for the following minimum separation of duties:

- (1) A cashier to handle the beginning bank, provide chips to the games, redeem chips and cash checks for the players; and
- (2) A runner to transport money, chips, and lock boxes between gambling stations at the event; and
- (3) Floor supervisors to supervise not more than six gambling stations each and who must supervise the transfer of lock boxes and chips and change trays to the count room; and
- (4) Gambling station operators to control the activity at a specific gambling station.

[Statutory Authority: RCW 9.46.070.]

230-09-045 Counting money.

Licensees must have an area for counting money separate from the area where gambling is taking place. Licensees must use the forms and format we prescribe for the count. Licensees must:

- (1) Bring all money from the fund raising event (FRE) to the counting area; and
- (2) Assign three cashiers to count the money. Two cashiers must be in the counting area at all times money is present; and
- (3) Have at least two cashiers verify the beginning count and sign the record; and
- (4) Restrict access to the counting area to the cashiers and to the runner(s) who transport money or chips to or from those stations; and
- (5) Transfer all money and chips to the counting area at the end of the day or event for final tabulation, reconciliation, and verification; and
- (6) Have at least three bankers or cashiers verify the final tabulation and reconciliation and sign the verification.

[Statutory Authority: RCW 9.46.070.]

230-09-050 Use lock boxes and money paddles.

Licensees must have numbered games stations with separate lock boxes and money paddles for each station.

- (1) The money paddle must remain in the lock box slot whenever it is not in use. The money slot of the lock box must not exceed three and one-half inches in length and one-half inch in width; and
- (2) Dealers must exchange all currency presented by the players for coin or chips and the dealer must immediately place it in the lock box; and
- (3) Licensees must keep the keys to all lock boxes in the counting area at all times; and
- (4) Only cashiers may open the lock boxes and they must open them only in the counting area.

[Statutory Authority: RCW 9.46.070.]

230-09-055 Maintain records of net receipts.

Licensees must maintain records in sufficient detail to determine the net receipts of each gambling station operated. Licensees must:

- (1) Record a reconciliation of the ending cash on hand to net receipts; and
- (2) Deposit the ending cash on hand within two banking days of the conclusion of the fund raising event and must include a validated deposit slip as part of the records; and
- (3) Not spend any of the ending cash before the deposit.

[Statutory Authority: RCW 9.46.070.]

230-09-060 Winners must be present and participating to win.

Winners must be present and participating to win at a fund raising event.

[RCW 9.46.070.]

230-09-065 Use only full and regular members to operate the fund raising event.

(1) Licensees must use only full and regular members of the charitable or nonprofit organization to manage or assist in the operation of a fund raising event (FRE). "Full and regular membership" is defined in WAC 230-03-140.

(2) Licensees may also use "members" and "bona fide members" as defined in RCW 9.46.0261 to manage or assist in the operation of an FRE.

[Statutory Authority: RCW 9.46.070.]

230-09-070 Compensation of other authorized employees.

Generally, licensees must not pay people to work at a fund raising event (FRE). However, in the following circumstances, licensees may compensate people:

- (1) Licensees may allow people who are not members of the organization to perform incidental functions, which we will not consider "management or operation" under RCW 9.46.120. These incidental functions include:
 - (a) Serving food and drink to participants in the FRE; or
 - (b) Parking cars; or
 - (c) Maintaining general crowd control and order at the FRE, or
 - (d) Detecting people cheating, as long as that employee is a commissioned law enforcement officer with the power to make arrests in the jurisdiction in which the FRE is being held or is the employee of a commercial securities service firm licensed to

- provide these services by the city, town, or county in which the FRE is being conducted; or
- (e) Providing janitorial functions; or
 - (f) Supervising these people, as long as the licensee does not pay these employees more than the local prevailing level of payment for supervising at events other than FREs.
- (2) Licensees may also furnish food and nonalcoholic beverages to full and regular members who volunteer as long as the food or drink does not exceed twenty dollars per volunteer per FRE.
- (3) If a licensee's employee is also a full and regular member of the organization or its auxiliary and is not scheduled for assigned employee duties at the time the FRE, the employee may assist in the FRE.

[Statutory Authority: RCW 9.46.070.]

230-09-075 Workers must wear name tags.

All fund raising event workers must wear a name tag at all times. Name tags must include at least the member's first initial and last name or first name and first initial of the last name and the name of the organization.

[Statutory Authority: 9.46.070.]

Premises and Equipment for Fund Raising Events

30-09-080 Holding fund raising events on commercial business premises.

(1) Licensees may operate fund raising events (FREs) on commercial business premises only if:

- (a) The commercial business is closed to the public at all times during which the licensee conducts the FRE; or
- (b) The portion of the business premises in which the licensee conducts the FRE is separate and apart from the portion used by the commercial business. In this rule, “separate and apart” means having a permanent or temporary partition. The partition must:
 - (i) Have not more than two designated openings to limit pedestrian flow; and
 - (ii) Provide a solid, distinct separation between the portion of the premises where the licensee conducts the FRE and the portion of the premises the commercial business uses.

(2) Licensees must not conduct an FRE on or within a commercial business premises while any other organization is conducting an FRE on or within the same commercial business premises.

[Statutory Authority: 9.46.070.]

230-09-085 Commercial business must not participate in fund raising events.

(1) Licensees must ensure the owners, managers, or employees of the commercial business premises used for the fund raising event (FRE) do not participate in the operation of any of the FRE activities.

(2) Licensees must not hold an FRE on the premises of a commercial business if any of the licensee's officers are owners, managers, or employees of the commercial business.

[Statutory Authority: RCW 9.46.070; RCW 9.46.120.]

230-09-090 Control of premises.

Licensees must have, and exercise, complete control over the portion of the premises where the fund raising event (FRE) takes place at all times they conduct the FRE. However, if the sale, service, or consumption of liquor is permitted in that portion of the premises, the liquor licensee or permittee must be responsible for compliance with liquor laws and regulations.

[Statutory Authority: RCW 9.46.070.]

230-09-095 Using, leasing, or renting equipment.

- (1) Fund raising event (FRE) licensees must purchase, lease, or rent gambling equipment only from a licensed distributor or another FRE licensee.
- (2) FRE licensees may sell their equipment to other FRE licensees or distributors.
- (3) FRE licensees may loan or rent their own equipment for up to four events per year without obtaining an FRE equipment distributor license if:
 - (a) The FREs take place within the twelve calendar month period following the licensee's last FRE; and
 - (b) The licensee ensures their equipment is only used in FREs or other authorized activities, such as bingo.
- (4) FRE equipment distributor licensees must sell, rent, or lease gambling equipment, premises, or services for use in a FRE on commercially reasonable terms.
- (5) Licensees must make all rentals at a lump sum or hourly rate and rentals must not be based on a percentage of the income or profit from the FRE.

[Statutory Authority: RCW 9.46.070. RCW 9.46.120.]

Gambling Activities Authorized at Fund raising Events

230-09-100 Pull-tabs authorized.

Licensees must operate pull-tabs solely under their fund raising event (FRE) license, not under a separate pull-tab license. If licensees sell pull-tabs, they must:

- (1) Purchase the pull-tabs for specific use at FREs and record the identification and inspection services stamps on the form we provide; and
- (2) Mix the pull-tabs and sell them out of a clear container. Licensees must not use a coin-operated dispensing device; and
- (3) Use the manufacturer's set price for each specific series; and
- (4) Have no more than three pull-tab series out for play at one time; and
- (5) Sell all pull-tabs from a booth or similar confined area which prohibits public access to the pull-tabs; and
- (6) Treat each pull-tab series as a separately numbered gambling station. Each series must have a separate corresponding lock box, money paddle, and chip tray for making change and payment of prizes. The attendant(s) on duty must immediately place all currency, coins, or chips used to purchase pull-tabs in the corresponding lock box. All change given back to players must be in the form of chips or coins from the chip tray; and
- (7) Deface all winning pull-tabs when they are cashed in and put them in the corresponding lock box.
- (8) Pay winning pull-tabs in chips and coins only, or players may cash in winning pull-tabs for additional pull-tabs only from the same series; and
- (9) Comply with all other rules and laws for pull-tabs in WAC 230 and RCW 9.46.

[Statutory Authority: RCW 9.46.070.]

230-09-105 Processing pull-tabs after play.

When attendants remove a series from play, a runner must take the series, including the flare, the corresponding lock box, and chip tray to the count room.

- (1) Cashiers must immediately record all gross gambling receipts collected, prizes paid, and tabs sold and write the totals on the pull-tab accounting report we furnish according to the instructions attached; and
- (2) After completing the count, cashiers must package or band winning pull-tabs separately and place them with the unused portion of that particular series in the original shipping container. The licensee must retain the used series for one year; and
- (3) At the completion of the FRE, licensees must
 - (a) Take all series still out for play to the count room and follow count room procedures; and

- (b) Return all unopened pull-tab series to the licensed distributor who sold the series for a full refund. Licensees must not sell or operate the unopened series under their separate pull-tab license.

[Statutory Authority: RCW 9.46.070.]

230-09-110 Punch boards not authorized.

Fund raising event licensees must not operate punch boards as part of the FRE.

[Statutory Authority: RCW 9.46.070.]

230-09-115 Bingo authorized.

Licensees must operate bingo solely under their fund raising event (FRE) license, not under a separate bingo license. If licensees operate bingo, they must:

- (1) Count income from bingo against the maximum net receipts authorized for FREs; and
- (2) Comply with all of our rules for Class A, B, and C Bingo.

[Statutory Authority: RCW 9.46.070.]

230-09-120 Disposable bingo cards.

(1) Licensees that have a separate bingo license and use disposable bingo cards at the fund raising event (FRE) must follow the inventory control procedures for disposable cards in the Bingo Rules chapter.

(2) Licensees that do not have a separate bingo license must keep all unused disposable cards or packets as part of the FRE record. Licensees may return unused cards or packets to the distributor if there are no breaks in the consecutive card/audit numbers. Licensees must receive documentation from the distributor of the total number of cards or packets returned and the beginning and ending card/audit numbers.

[Statutory Authority: RCW 9.46.070.]

230-09-125 Raffles authorized.

(1) Licensees may operate raffles at fund raising events (FREs) in one of two ways:

- (a) **Solely under their fund raising event license.** Licensees must conduct all aspects of the raffle during the FRE. Income from this raffle counts toward the FRE limits; or

- (b) **Under a separate raffle license.** Licensees must sell all tickets for the raffle and deposit all tickets in the drawing receptacle before the FRE and hold the raffle drawing at the FRE. Income from this raffle counts toward the limits of the licensee's raffle class.
- (2) For raffles conducted under an FRE license, licensees must
- (a) Not sell single FRE raffle tickets for more than twenty-five dollars per ticket; and
 - (b) Not require a person to buy more than one ticket; and
 - (c) Use consecutively numbered tickets; and
 - (d) Ensure that each ticket has a separate and equal chance to win; and
 - (e) Randomly draw the winning ticket; and
 - (f) Operate and account for raffles as independent gambling stations at the FRE; and
 - (g) Maintain records to verify gross sales of tickets; and
 - (h) Report all FRE raffle income, prizes awarded, and other expenses and these amounts count toward the maximum net receipts authorized for FREs.

[Statutory Authority: RCW 9.46.0277; RCW 9.46.070.]

230-09-130 Blackjack or “21” authorized.

Licensees may operate blackjack or “21” at licensed fund raising events (FREs) according to the following requirements:

- (1) Dealers must deal all cards from a dealing shoe. The deal must begin with a shoe containing at least four full decks of cards and proceed until the cards are reshuffled, withdrawn for examination, or replaced. The shoe must then be refilled with at least four decks of cards and the process repeated; and
- (2) Dealers must deal cards to the players face up on the table; and
- (3) Players must not pick up, shuffle, or cut the cards; and
- (4) Licensees must use only standard size playing cards; and
- (5) Dealers may shuffle the cards using a device, apparatus, or mechanism.

[Statutory Authority: RCW 9.46.070.]

Joint Fund Raising Events

230-09-135 Joining together with other licensees to conduct a fund raising event.

Fund raising event (FRE) licensees may jointly conduct an FRE if they:

- (1) Do not exceed their individual FRE limit for the calendar year or a single event; and
- (2) Prepare a list of all persons from their organizations participating in the management or operation of the FRE. The list must be available on the premises of the FRE and contain, at a minimum, the name, address, telephone number, and a brief statement signed by the chief executive officer certifying that each member listed is a full and regular member of the organization; and
- (3) Keep records which clearly disclose the amount of money received and spent in connection with the joint FRE.

[Statutory Authority: RCW 9.46.0233 (3). RCW 9.46.070.]

230-25-140 Lead organization responsibilities.

The lead organization must:

- (1) Be responsible for the central accounting system; and
- (2) Comply with all recordkeeping and reporting rules; and
- (3) Deposit the ending cash on hand; and
- (4) Prepare and submit a fund raising event report; and
- (5) Disburse all funds due to any participating organizations by check within thirty days following the event.

[Statutory Authority: RCW 9.46.070.]

Limited Fund Raising Events

230-09-145 Limited fund raising event defined.

A limited fund raising event (FRE) means:

- (1) Only members and guests of the organization may participate in a limited FRE. A limited FRE is not open to the public; and
- (2) Only merchandise prizes, not cash, are awarded; and
- (3) The organization may hire a licensed FRE equipment distributor to provide the equipment and staff to operate gambling stations; and
- (4) The organization may deduct the cost of equipment rental and services when calculating the FRE net receipts limits.

[Statutory Authority: RCW 9.46.0233.]

230-09-150 Operating a limited fund raising event.

(1) Licensees must:

- (a) Require participants to purchase scrip with cash; and
- (b) Exchange scrip at gambling stations for chips; and
- (c) Allow only full and regular members to make cash transactions for scrip and maintain records during the FRE; and
- (d) Disclose the prizes offered. The costs of prizes must not exceed fair market value. The organization may advertise the prize to the participants at the retail value; and
- (e) Prevent the cost of all prizes from exceeding ten percent of the gross revenue of the event; and
- (f) Comply with all other FRE rules.

(2) Licensees may allow unlimited wagering when using scrip.

[Statutory Authority: RCW 9.46.0233 and RCW 9.46.070.]

230-09-155 Recordkeeping at limited fund raising events.

Limited fund raising events (FREs) licensees must comply with WAC 230-06-070. In order to show compliance with FRE limits, licensees also must provide details regarding how much of the admission fees from the limited FRE they allocate to gambling scrip and how much they allocate to other activities, such as meals and entertainment.

[Statutory Authority: RCW 9.46.070.]

230-09-160 Fund raising event distributor rules at limited fund raising events.

(1) The fund raising event (FRE) equipment distributor must not share in any way in the proceeds of the FRE.

(2) Employees of the FRE equipment distributor must:

- (a) Wear a name tag with, at a minimum, their first name and the full name of the distributor; and
- (b) Not handle cash transactions; and
- (c) Not allow participants to purchase chips with cash.

[Statutory Authority: RCW 9.46.070.]

230-09-165 Restrictions on gambling activities at limited fund raising events.

- (1) Licensees must not sell pull-tabs at limited fund raising events (FREs).
- (2) Licensees must ensure that participants play only for merchandise prizes.
- (3) Licensees may allow participants to exchange chips or scrip for raffle tickets at the end of a limited FRE to determine who will win merchandise prizes.
- (4) Licensees must only sell bingo cards in exchange for scrip.

[Statutory Authority: RCW 9.46.070.]

Rules Up For Discussion and Possible Filing



Proposed Amendments to

WAC 230-02-205 Gambling service supplier defined.

New Sections

WAC 230-02-203 Defining lending agent, loan servicer, or placement agent.

WAC 230-02-204 Defining regulated lending institution.

Companion Rules Simplification Project Rules

These companion rules won't become effective until 1/1/08.

Amendatory Section: WAC 230-03-210 Applying for a gambling service supplier license.

New Sections:

WAC 230-03-211 Defining "Lending Agent," "Loan Servicer," or "Placement Agent"

WAC 230-03-212 Defining "Regulated Lending Institution"

ITEM 13 (a)-(f) on the August 11, 2006, Commission Meeting agenda.	Statutory Authority 9.46.070
Who proposed the rule change?	
Staff.	
Proposed Change	
<p>The rule is being changed to clarify the following:</p> <ol style="list-style-type: none"> 1) Currently, the rule can be interpreted broadly because it refers to providing financing for "infrastructure that supports gambling operations." Infrastructure is a broad word; Commission staff is seeking to restrict licensure to those that provide the financing for facilities, equipment or operational needs. In this case, the financing referred to is not that offered by a traditional lending institution. 2) To expand the list of financiers not required to be licensed as well as setting forth formal suitability obligations. 3) Businesses performing analysis of gambling equipment. For example, Tribal-State compacts authorize Tribes to have their Tribal Lottery Systems analyzed by vendors from a list approved by the Commission. In order to qualify to be placed on the list of approved vendors, our practice has been to require vendors to be licensed. 4) Businesses providing gambling related software, which enter into an ongoing financial relationship with a licensed manufacturer. Gambling related software is that software which can affect the results or outcome of the Tribal Lottery System games, or the digital card table games, and/or directly interfaces with or controls the operation of the gambling equipment. Commission staff have met with and considered information provided by the industry and Tribal advocates. <p>The rule is being changed to specifically require licensure of:</p> <ol style="list-style-type: none"> 1) A lending agent, loan servicer or placement agent. In the past several years, we have seen growth in the area of non-traditional lenders of money; therefore, Commission staff felt the rule should clearly set forth this requirement so these lenders know in advance they are required to be licensed. The difference between this type of lender and a traditional lender such as a bank, mutual savings bank or credit union is a traditional lender falls within well established federal regulatory jurisdictions. 	
History of Rule	
<p>WAC 230-02-205 was originally filed in 1997. Prior to that time, the Commission had a license classification called Class III Management Company/Financier. In 1997, the Commission removed the Class III Management Company/Financier license class, and included those services in the newly created Gambling Service Supplier classification. Those providing gambling services that did not fit the traditional manufacturer, distributor or operator license class were also included in the newly created</p>	

Service Supplier classification.

The rule was amended in 1998, 2000, and in January 2004 to keep pace with the changing industry. The changes to WAC 230-02-205 are matched with new definition sections explaining which persons or entities are considered lending agents, loan servicers, or placement agents (02-203), and what a regulated lending institution is (02-204). Lenders would not require a license if they are regulated as defined in the new section.

Impact of the Proposed Change

The circumstances surrounding the need for this change are:

- 1) This will enable staff and the public to know whether or not they need a service supplier license if the applicant is not a traditional manufacturer, distributor or operator. Staff will spend less time answering questions and analyzing particular situations for possible licensure.
- 2) Changing technology and business practices have created new opportunities for those providing gambling services.
- 3) There is no particular financing situation that prompted this rule change. However, staff is continually faced with analyzing new creative financing scenarios offered by lending institutions that do not have the regulatory oversight that traditional banks or mutual savings institutions have.
- 4) Since the definition for gambling equipment changed to include software, staff has had difficulty applying a consistent standard for businesses that might exert actual or potential influence in the area of software. This change will assist staff and the public in determining whether or not software, and its related attributes, require licensure.

Regulatory Concerns

These changes will assist staff in applying current rules to current situations.
This change will assist our licensing program by formally codifying current practice.
There is no impact to current field enforcement procedures.

Resource Impacts

Licensing staff will more efficiently be able to assist applicants and licensees when answering questions.

Policy Consideration

This will require some businesses to be licensed that were not required to be licensed in the past.

Statements Against the Proposed Rule Change

None.

Licensees Directly Impacted

Gambling service suppliers and those requiring their services.

Staff Recommendation

File for further discussion.

Proposed Effective Date for Rule Change

WAC 230-02-203, 230-02-204, 230-02-205: January 1, 2007.

Companion Rules Simplification Project Rules:

WAC 230-03-210, 230-03-211, 230-03-212: January 1, 2008.

New Section:

WAC 230-02-203 Lending Agent, Loan Servicer, and Placement Agent defined.

A person or entity, other than a regulated lending institution, that finds, places, administers, facilitates, or services loans to licensees and whose services include, but are not limited to, one or more of the following:

- (1) Charging an on-going fee for their services;
- (2) Maintaining rights as the lender;
- (3) Determining when the loan is in default; or
- (4) Maintaining access to collateral.

New Section:

WAC 230-02-204 Regulated Lending Institution defined.

A regulated lending institution is any state or federally regulated organization primarily in the business of lending money. An organization must demonstrate that it is a regulated lending institution by meeting all of the following criteria:

(1) Is registered and actively regulated by the Securities and Exchange Commission or any other United States federal or state governmental banking or financial regulatory agency. Lending institutions must demonstrate to the Commission that they are actively regulated by at least:

- (a) Annually reporting information on their lending activities to the regulatory agency; and
- (b) Receiving regular audits or inspections by the regulatory agency; and
- (c) Owners and officers undergo criminal history background checks.

(2) Is acting as a passive investor in the licensed establishment to which they are lending money. For the purposes of this rule, passive investors are those who do not have actual or potential influence over the operations of the licensed entity. A lending institution will not be considered a passive investor if they:

- (a) Appoint or have the right to appoint officers, directors, consultants, or other positions with the licensed establishment; or
- (b) Require the licensed establishment to seek their approval or authorization in making business decisions for the organization; or
- (c) Have full access to records of the establishment; or
- (d) Have the ability to convert the debt into shares which would result in the lender becoming a substantial interest holder per WAC 230-02-300 (4).

(3) A majority of its outstanding loans receivable are from businesses not engaged in gambling activities.

Amendatory Section:

WAC 230-02-205 Gambling service supplier defined.

A "gambling service supplier" is any person who provides gambling related services for compensation, whether directly or indirectly.

(1) Gambling related services include at least the following:

- (a) Providing consulting or advisory services regarding gambling activities;
- (b) Providing gambling related management services;
- (c) Providing financing for purchases or leases of gambling equipment or for providing financing for infrastructure or facilities, or equipment, that supports gambling operations for more than one licensee. For purposes of this section, financing by any bank, mutual savings bank, or credit union regulated by the department of financial institutions or any federally regulated commercial lending institution shall not be deemed as providing gambling related services;
- (d) Acting as a lending agent, or loan servicer, or placement agent as defined in WAC 230-02-203;
- (e) Providing any other service or activity where influence may be exerted over any gambling activity licensed by the commission;
- (f) Providing assembly of components for gambling equipment under a contract with a licensed manufacturer or entering into an ongoing financial arrangement for gambling related software with a licened manufacturer;
- (g) Providing installation, integration, maintenance, or any other service of digital surveillance systems that allows direct access to the operating system; or
- (h) Training individuals to conduct authorized gambling activities.
- (i) Performing the testing and certification of Tribal Lottery Systems as meeting requirements specified in the Tribal-State Compact;

(2) The term "gambling services supplier" does not include the following:

- (a) Universities and colleges that are regulated by the Washington state board of community and technical colleges and the higher education coordinating board which train individuals to conduct authorized gambling activities;
- (b) Licensed manufacturers or distributors who service and repair pull-tab dispensing devices, bingo equipment or any other authorized gambling equipment;
- (c) Attorneys, accountants, and governmental affairs consultants whose primary business is providing professional services that are unrelated to the management or operation of gambling activities; and
- (d) Persons that only provide nonmanagement related recordkeeping services for punch board and pull-tab operators, when the combined total gross billings from such services does not exceed twenty-five thousand dollars during any calendar year.
- (e) Person who provide names, images, artwork or associated copyrights or trademarks, or other features that do not affect the results or outcome of the game, for use in gambling equipment;
- (f) Regulated Lending Institutions as defined in WAC 230-02-204.

Companion Rules Simplification Project Rule

This rule will not be effective until 1/1/08

Amendatory Section:

WAC 230-03-210 Applying for a gambling service supplier license.

(1) You must apply for a gambling service supplier license if you perform any of the following gambling-related services for compensation:

- (a) Consulting or advisory services regarding gambling activities;
- (b) Gambling management services; or
- (c) Financing for purchases or leases of gambling equipment or financing for providing infrastructure or facilities, or equipment, that supports gambling operations for more than one licensee; or
- (d) Acting as a lending agent, or loan servicer, or placement agent; or
- (e) Providing the assembly of components for gambling equipment under a contract with a licensed manufacturer or entering into an ongoing financial arrangement for gambling related software with a licensed manufacturer; or
- (f) Installing, integrating, maintaining, or servicing digital surveillance systems that allow direct access to the operating system; or
- (g) Training individuals to conduct authorized gambling activities; or
- (h) Providing any other service or activity where influence may be exerted over any gambling activity licensed by the commission; or
- (i) Performing the testing and certification of Tribal Lottery Systems as meeting requirements specified in the Tribal-State Compact.

(2) You do not need a gambling service supplier license if you are:

- (a) A bank, mutual savings bank, or credit union regulated by the department of financial institutions or any federally regulated commercial lending institution; or
- (b) A university or college regulated by the Washington state board of community and technical colleges and the higher education coordinating board that trains individuals to conduct authorized gambling activities; or
- (c) An attorney, accountant, or governmental affairs consultant whose primary business is providing professional services that are unrelated to the management or operation of gambling activities; or
- (d) A person who (~~that~~) only provides nonmanagement-related recordkeeping services for punch board and pull-tab operators, when the combined total gross billings from such services does not exceed twenty thousand dollars during any calendar year; or
- (e) A person who provide names, images, artwork or associated copyrights or trademarks, or other features that do not affect the results or outcome of the game, for use in gambling equipment; or
- (f) Regulated Lending Institutions.

[Statutory Authority: RCW 9.46.070 (4), (14), and (20).]

Companion Rules Simplification Project Rule

This rule will not be effective until 1/1/08

New Section:

WAC 230-03-211 Defining “Lending Agent,” “Loan Servicer,” or “Placement Agent”

(1) "Lending agent," "loan servicer," or "placement agent" mean any person or entity, other than a regulated lending institution, that finds, administers, facilitates, or services loans for a licensee.

(2) The services of lending agents, loan servicers, or placement agents include, but are not limited to,

- (a) Charging an on-going fee for their services;
- (b) Maintaining rights as the lender;
- (c) Determining when the loan is in default; and/or
- (d) Maintaining access to collateral.

Companion Rules Simplification Project Rule

[This rule will not be effective until 1/1/08]

WAC 230-03-212 Defining "Regulated Lending Institution"

- (1) "Regulated lending institution" means any state or federally regulated organization primarily in the business of lending money for investment purposes.
- (2) "Regulated lending institutions" must
 - (a) Register with the Securities and Exchange Commission or any other United States federal or state governmental banking or financial regulatory agency.
 - (b) Be actively regulated by the Securities and Exchange Commission or any other United States federal or state governmental banking or financial regulatory agency. "Active regulation" means
 - (i.) Reporting annually on lending activities to the regulatory agency;
 - (ii.) Receiving regular audits or inspections by the regulatory agency; and
 - (iii.) Undergoing criminal history background checks of owners and officers.
 - (c) Act as passive investors in the licensee. "Passive investors" mean investors who have no actual or potential influence over the operations of the licensee. A "passive investor" does not
 - (i.) Appoint or have the right to appoint officers, directors, consultants, or other positions with the licensee;
 - (ii.) Require the licensee to seek approval or authorization in making business decisions;
 - (iii.) Have full access to the records of the licensee;
 - (iv.) Have the ability to convert debt into shares which would result in the lender becoming a substantial interest holder; or
 - (v.) Have any other influence or control over the licensee.
 - (d) Have non-gambling-related businesses as a majority of their outstanding loans receivable.

Rules Up For Discussion and Possible Filing



Proposed Amendments to

WAC 230-25-040 Fund-raising event—House rules to be developed and posted—Limitations on wagers.

WAC 230-25-050 Wagering among participants not permitted.

WAC 230-25-325 Limited fund-raising event – Procedures and restrictions.

New Section

WAC 230-25-045 Poker tournaments at fund-raising events and limited fund-raising events FRE's.

ITEM 14 (a)-(d) on the August 11, 2006, Commission Meeting Agenda. Statutory Authority 9.46.070 & 9.46.0233

Who proposed the rule change?

Staff on behalf of charitable and nonprofit organizations.

Proposed Change

These proposed rule changes and new rule would allow poker tournaments at fund-raising events (FRE) and limited FREs.

WAC 230-25-040: This rule requires house rules to be posted for fund-raising events, including wagering limits. A new subsection states there are no limits on the number of poker tournaments chips that can be wagered at FREs.

WAC 230-25-045: This new rule lists additional requirements licensees must follow when offering poker at FREs.

WAC 230-25-050: This rule prohibits players from wagering against each other (such as poker games) at FREs. Language was added to provide an exception to this restriction and authorize poker tournaments at FREs.

WAC 230-25-325: Subsection (1)(7) was added to authorize poker tournaments at limited fund-raising events.

History of Rule

WAC rules do not currently allow charitable/nonprofit organizations to conduct poker tournaments that are open to the general public. Card games such as poker may be played at charitable/nonprofit organizations but only by members. RCW 9.46.0233 authorizes charitable or nonprofit organizations to operate bingo, amusement games, contests of chance, lotteries, and raffles at a FRE. These events are also known as Casino or Reno Nights and are open to the public.

House-banked card games such as blackjack are played at FREs. However, games where players wager against each other (such as poker) is prohibited by WAC 230-25-050.

The RCW limits FREs to:

- One FRE for a period of 72 consecutive hours once during a calendar year; or two FREs during a calendar year with each not exceeding 24 consecutive hours.
- Annual net receipts cannot exceed \$10,000.

Impact of the Proposed Change

With the increasing popularity of poker, Commission staff has received numerous calls from charitable/nonprofit organizations requesting to operate poker tournaments to raise funds. Many of the requests are to operate poker tournaments in conjunction with a dinner or other events used to raise money for organizations such as hospital foundations, churches, parent groups, and other charitable organizations.

Allowing poker tournaments at a Fund Raising Event is consistent with the recent approval of poker tournaments at Recreational Gaming Activities.

Regulatory Concerns

None

Resource Impacts

Staff currently spends a considerable amount of time answering questions and assisting charitable/nonprofit organizations wishing to operate poker tournaments for fund raising purposes.

Any additional regulatory duties created by allowing poker tournaments should be offset by the time not spent addressing why charitable/nonprofits can't operate poker tournaments and explaining what they can do.

Policy Consideration

The increase of other forms of gambling (house-banked card rooms and tribal casinos) has impacted charitable and nonprofit organizations ability to raise funds through gambling.

Poker tournaments are allowed as a non-profit and charitable licensed activity, but have not previously been allowed at Fund Raising Events. This will give non-profit or charitable organizations another venue to raise funds for their stated purposes.

Stakeholder Statements For the Proposed Rule Change

A request was read into the record at the June 2006, Commission meeting as to whether the Commission was going to allow poker tournaments at fund-raising events.

Stakeholder Statements Against the Proposed Rule Change

None.

Licensees Directly Impacted

Fund-raising event licensees and limited fund-raising event licensees.

Staff Recommendation

File for further discussion.

Proposed Effective Date for Rule Change

November 13, 2006, assuming the rule is adopted at the October 2006, Commission meeting to become effective 31 days after filing.

Amendatory Section:

**WAC 230-25-040 Fund-raising event -- House rules to be developed and posted --
Limitations on wagers.**

(1) Before conducting a fund-raising event (FRE), each licensee shall develop house rules to govern the scope and manner of all gambling activities to be conducted during the FRE. At a minimum, these rules shall:

(a) State the maximum amount of a single wager that may be placed by FRE participants. Wagering limits are as follows:

(i) Single wagers shall not exceed ten dollars;

(ii) Raffles or other similar drawings may exceed the ten dollar wagering limit, but may not exceed the limitations set forth in RCW 9.46.0277; and

(iii) There are no limits on wagers made using scrip.

(iv) There are no limits on the number of poker tournament chips that may be wagered.

(b) Prohibit any thing of value from being given to any person involved in the management or operation of the FRE; and

(c) Prohibit any person involved in the management or operation of the FRE from accepting any thing of value.

Posting house rules.

(2) A copy of the rules shall be conspicuously posted in the area where the FRE is being conducted at all times during the FRE. A copy must be available, upon request, to any law enforcement officer or representative of the commission, or member of the general public

NEW SECTION

WAC 230-25-045 Poker tournaments at fund-raising events and limited fund-raising events.

Poker tournaments are authorized at fund-raising events (FREs) and limited FREs under FRE rules with the following additional requirements.

Net Receipts Limitation

(1) All money paid to enter a tournament or purchase chips or script to enter a tournament is considered to be a wager for the purpose of determining the \$10,000 net receipts limits.

Prizes.

(2) Chips used in card tournaments do not have a monetary value and may only be redeemed for prizes.

Posting of rules.

(3) The licensee must adopt poker tournament rules and conspicuously post the rules at the tournament location.

Prize records.

(4) The licensee must maintain a record of all prizes awarded to include the amount the licensed operator actually paid for each prize and the name and complete address of each winning participant. If prizes are donated, the licensee must maintain a record that includes the name of the donor and a description of the prizes donated.

Amendatory Section:

WAC 230-25-050 Wagering among participants not permitted.

No licensees ~~((to conduct))~~ conducting a fund-raising event shall not permit, as a part of that fund-raising event, a gambling activity which involves a wagering of money or other items of value by one participant against another participant. This rule ~~shall not be construed to~~ does not prohibit gambling activities wholly administered by the licensee wherein the licensee collects wagers from among the participants and determines the winners and amounts of prizes on a pari-mutuel basis or poker tournaments as authorized under WAC 230-25-045.

Amendatory Section:

WAC 230-25-325 Limited fund-raising event -- Procedures and restrictions.

Pursuant to RCW 9.46.0233(2), nonprofit or charitable organizations may offer *limited* fund-raising events (FREs). Organizations offering *limited* FREs must operate the FRE under the following operational procedures:

Operating procedures.

- (1) Only members of the organization and their guests shall participate in the event. The event shall not be open to the general public.
- (2) Participants shall purchase scrip with cash.
- (3) Scrip shall be exchanged at gambling stations for chips.
- (4) Only bona fide members will be utilized for all transactions involving acceptance of cash for scrip, conducting the schemes to determine the winners of merchandise prizes, and maintaining records during the event.
- (5) The value of all purchased prizes must not exceed ten percent of the gross revenue from the event, less the cost of the FRE equipment rental contract.
- (6) Any prizes purchased from the FRE equipment distributor must be disclosed. The cost may not exceed the fair market value. Prizes may be disclosed to the public at the retail value.
- (7) Poker tournaments may be operated at limited fund-raising events. Tournament rules must be established and posted.

FRE equipment distributors.

Limitations.

- (7) The nonprofit organization may only contract with a person or organization licensed as a FRE equipment distributor to provide the equipment and staff to operate the gaming stations.
- (8) Under no circumstances shall employees of the FRE equipment distributor handle cash transactions or allow participants to purchase chips with cash.

Compensation.

- (9) The fee paid to the FRE equipment distributor shall be in compliance with WAC 230-25-120. The FRE equipment distributor shall not share in any way in the proceeds of the event except as set forth in the rule.

Information to be submitted with FRE application.

- (10) The application must include details relating to the initial cost to participate, and method for purchasing additional scrip, as well as identify all costs included in the initial price to enter that are not related to the gambling activity (i.e., meals, drinks, etc.). The

application must also identify the scheme that will be followed to distribute the merchandise prizes to participants at the end of the event (i.e., raffle, auction, etc.).

(11) All contracts signed by the FRE licensee with the FRE equipment distributor and premises provider must be submitted with the FRE license application.

Fees.

(12) The licensing fee for a *limited* FRE shall be as set forth in WAC 230-04-202(4).

[Statutory Authority: RCW 9.46.070. 00-15-048 (Order 387), § 230-25-325, filed 7/17/00, effective 8/17/00.]